

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE: TERRORIST ATTACKS ON :
SEPTEMBER 11, 2001 : **03-MDL-1570 (GBD)(SN)**

This Document Relates To:

Ashton, et al. v. al Qaeda Islamic Army, et al., Case No. 02-cv-06977 (GBD)(SN)

Burlingame, et al. v. bin Laden, et al., Case No. 02-cv-07230 (GBD)(SN)

**THE BREITWEISER PLAINTIFFS' MOTION
FOR FINAL DEFAULT JUDGMENT AGAINST THE TALIBAN**

In compliance with the Court's July 11, 2022 Order (MDL ECF Doc. No. 8198), Plaintiffs Kristen Breitweiser, as Personal Representative of the Estate of Ronald Breitweiser, Deceased, Kristen Breitweiser individually in her own right, and Caroline Breitweiser ("collectively, the "Breitweiser Plaintiffs"), by and through counsel, hereby file this Motion For Entry of Final Default Judgment Against the Taliban.

The Breitweiser Plaintiffs seek a final default judgment against the Taliban with awards for economic, pain-and-suffering, and solatium damages and pre-judgment interest.

Plaintiff Kristen Breitweiser, as Personal Representative of the Estate of Ronald Breitweiser, seeks an award of non-economic damages for conscious pain-and-suffering and economic damages for the Estate of Ronald Breitweiser in the same amounts they were awarded against another Defendant in this MDL, as set forth on **EXHIBIT A**.

Plaintiff Kristen Breitweiser, individually and in her own right, seeks an award of solatium damages for herself as the widow of 9/11 Decedent Ronald Breitweiser in the same amount that her solatium damages were awarded against another Defendant in this MDL, as set forth on **EXHIBIT B**.

Plaintiff Caroline Breitweiser, who was a minor on September 11, 2001, seeks an award of solatium damages as a then-minor dependent child of 9/11 Decedent Ronald Breitweiser, in the same amount that her solatium damages were awarded against another Defendant in this MDL, as set forth on **EXHIBIT B**.

The Breitweiser Plaintiffs herein do not seek any ruling that an award of such damages is determinative of the amounts any potential damages awards that may be entered against any Defendant other than the Taliban in this MDL.

All of the Breitweiser Plaintiffs also seek awards of pre-judgment interest against the Taliban at the rate of 4.96% per annum, compounded annually.

The causes of action for which the Breitweiser Plaintiffs seek final default judgment are set forth in the *Ashton* Third Amended Consolidated Master Complaint and include: (1) Wrongful Death based on Intentional Murder; (2) Survival Damages based on Intentional Murder; (3) Assault and Battery; (4) Violation of the Anti-Terrorism Act (“ATA”), 18 U.S.C. § 2333; and (5) Violation of the Torture Victim and Protection Act, 28 U.S.C. § 1350.

The Breitweiser Plaintiffs further request that their damages be trebled under the Anti-Terrorism Act, 18 U.S.C. § 2333(a) (“ATA”), as sought in the *Ashton* Third Amended Consolidated Master Complaint and as reflected on **EXHIBITS A and B**.

The Breitweiser Plaintiffs further request permission to file a future application for an award of punitive damages, and to file a future application for an award of the costs of suit, including attorneys’ fees, as provided in the ATA, 18 U.S.C. § 2333(a).

The Breitweiser Plaintiffs rely upon the Affidavit For Entry Of Default And Judgment By Default, and its exhibits, filed on April 27, 2006, in *Ashton, et al. v. al Qaeda Islamic Army, et al.*, Case No. 02-cv-6977 (GBD)(SN); the Affidavit was executed by *Ashton* counsel, Andrew J.

Maloney, III, on April 13, 2006. *In Re: September 11, 2001 Terrorist Attacks*, MDL ECF Doc. Nos. 1782 through 1782-9. The Breitweiser Plaintiffs also rely upon the affidavit by *Ashton* counsel, Andrew J. Maloney, III, and all its exhibits, filed on July 27, 2022, MDL ECF Doc. No. 8275. The Maloney Affidavits address, *inter alia*, the filing of the *Ashton* complaints, service of process by publication, the Taliban's failure to answer or respond to the *Ashton* complaints, and, with respect to the latter Affidavit, the Court's grant of default judgments on liability to the *Ashton* Plaintiffs, which included the *Burlingame* Plaintiffs (including the Breitweiser Plaintiffs), on May 12, 2006, at MDL ECF No. 1797.

The Breitweiser Plaintiffs also rely upon the Declaration of Frank Granito, III, and its exhibits, filed on August 16, 2022, in *Burlingame, et al. v. bin Laden, et al.*, Case No. 02-cv-7230 (GBD)(SN), at MDL ECF Doc. Nos. 8364, 8364-1 through 8364-5. Because the Breitweiser Plaintiffs were represented by Frank Granito of Speiser Krause at the time the pertinent events and actions took place that are the subjects of the August 16, 2022 Granito Declaration, the facts, actions, and documents referenced therein apply to the Breitweiser Plaintiffs in the same manner as they do to the other *Burlingame* Plaintiffs. The August 16, 2022 Granito Declaration details, *inter alia*, the filing of the complaints, service of process by publication, the Taliban's failure to answer or respond to the *Ashton* complaints, and the Court's grant of default judgments on liability to the *Ashton* Plaintiffs, which included the *Burlingame* Plaintiffs (including the Breitweiser Plaintiffs), on May 12, 2006. MDL ECF No. 1797.

The Breitweiser Plaintiffs also rely upon the Declaration of Frank H. Granito, III, in Support of Motion for Final Judgments, filed on May 25, 2018, at *Burlingame* ECF Doc. No. 19. The May 25, 2018 Granito Declaration specifically addressed the damages of the Breitweiser Plaintiffs, setting forth evidence of the lost earnings of the 9/11 decedent, Ronald Breitweiser,

and evidence of the pain and suffering of his widow, Kristen Breitweiser, and their child, Caroline Breitweiser. That evidence pertains to the instant motion in the same manner that it did to the May 25, 2018 motion.

WHEREFORE, Plaintiffs Kristen Breitweiser, as Personal Representative of the Estate of Ronald Breitweiser, Deceased, Kristen Breitweiser, individually and in her own right, and Caroline Breitweiser respectfully request that their Motion For Entry of Final Default Judgment Against The Taliban be granted and that final default judgment with awards of damages against the Taliban, as set forth herein and the attached **EXHIBITS A** and **B**, be entered in their favor.

Date: October 12, 2022

Respectfully Submitted,

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